

## **Town of Halfmoon Planning Board**

### **May 27, 2008 Minutes**

Those present at the May 27, 2008 Planning Board meeting were:

**Planning Board Members:** Steve Watts – Chairman  
Don Roberts – Vice Chairman  
Rich Berkowitz  
Marcel Nadeau  
Tom Ruchlicki  
John Higgins  
John Ouimet

***Alternate***

**Planning Board Members:** Bob Beck  
Gerry Leonard

**Senior Planner:** Jeff Williams  
**Planner:** Lindsay Zepko

**Deputy Town Attorney:** Bob Chauvin

**Town Board Liaisons:** Paul Hotaling  
Walt Polak

**CHA Representative:** Bob Lockwood

Mr. Watts opened the May 27, 2008 Planning Board Meeting at 7:00 pm. Mr. Watts asked the Planning Board Members if they had reviewed the May 12, 2008 Planning Board Minutes. Mr. Roberts made a motion to approve the May 12, 2008 Planning Board Minutes. Mr. Ouimet seconded. Motion carried.

**Public Informational Meeting:**

**08.020 PIM      Brookfield Place PDD, Guideboard & Harris Roads – Major Subdivision/PDD**

***(formerly Spinuzza Subdivision-project #05.200)***

Mr. Watts opened the Public Informational Meeting at 7:01 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Ivan Zdrahal, of Ivan Zdrahal Associates, PLLC, stated the following: They are here tonight to present a residential planned development district (PDD) for Landmark Development that will be located on a vacant parcel that has frontage on Harris Road and Guideboard Road. The parcel is 73-acres and is currently zoned as Residential (R-1). Of the 73-acres, 53-acres are buildable. The proposed project would consist of 81 residential lots and will be developed and marketed for empty nesters. There are two proposed access points to serve the development and they are off of Harris Road and off of Guideboard Road. On the map, the green area is buildable, the pink area is storm water management areas, the light brown area is a no cut buffer area that will be owned by the individual lot owners and will be restricted through deed restrictions and the yellow area is

common open space that will be maintained and owned by the Home Owner's Association (HOA). The proposed roads will be dedicated to the Town and will be built to Town standards. Water will be extended down Harris Road and Guideboard Road and sewer will be extended down Harris Road to the Harris/Guideboard Road intersection. We believe that all involved agencies; DOH and DEC & ACOE will be satisfied and will permit the proposed development. This is a PDD application and we are seeking a minimum lot size of 15,000 SF with the average size of the lots being about 22,000 SF. Mr. Watts asked if anyone from the public wished to speak. Mrs. Kara Grennon, whose mother lives on Lape Road and whose property is adjacent to a proposed stormwater management area (SWMA) asked if the proposed SWMA would be open ponds. Mr. Zdrahal stated the SWMA would be constructed to allow stormwater runoff from the roads to collect and time release to a drainage corridor. Mrs. Grennon asked if there would be a significant grade change that could flood her mother's property. Mr. Zdrahal stated that it will be designed and built to NYS regulations and that the Town's engineers will inspect the design construction. The pond will release its water to head to the north into the existing drainage corridor. Mrs. Grennon stated her aunt and uncle also live next door and they all share the concern of being flooded. Mrs. Grennon asked if there will be more bugs and will her mother's and aunt and uncles property be flooded. Mr. Zdrahal stated he cannot guarantee and has no control whether or not there will be more bugs and stated that their proposed development cannot create any drainage or flooding problems on adjacent properties. Mrs. Grennon asked if trees would be removed. Mr. Zdrahal stated that trees would be removed in the immediate vicinity of the proposed SWMA. Mrs. Grennon asked who controls the SWMA. Mr. Zdrahal stated that the SWMA will be dedicated to the Town and that the Town's engineers review the plans and inspect the construction. After it is dedicated to the Town, the Town will need to maintain the system. Mrs. Grennon asked if the SWMA would be fenced. Mr. Zdrahal stated no. Mrs. Grennon asked if there are trails being proposed and is worried if someone trespasses on her mother's property. Mr. Zdrahal stated the area is very wet and it is doubtful a trail will be in the area. Mr. Peter Monticup, 113 Guideboard Road, stated that he reviewed the plan and that the proposed buffer does not extend to the rear of his land. Mr. Zdrahal stated the plans have been revised and the one I am showing tonight shows the buffer being extended along the rear of all the lots that front on Guideboard Road. Mr. Monticup asked how wide the buffer is. Mr. Zdrahal stated 30 feet wide. Mr. Monticup asked how is it that you are asking for smaller lot sizes than what is allowed by the Town's ordinance. Mr. Zdrahal stated through the PDD process that allows flexibility in the zoning. We are proposing smaller lots for the 'empty nester' to allow less of a yard area to maintain. Mr. Zdrahal stated that a PDD application was submitted to the Town Board and the Town Board passed the application to the Planning Board for review and for recommendation. This is the stage we are in at this time for the project. If the Planning Board grants a positive recommendation to the Town Board then the Town Board will create a zoning legislation specific to this parcel and proposed development. Mr. Monticup asked who owns the buffer areas and will they be marked so the landowners know their location so the buffer is not disturbed. Mr. Zdrahal stated the individual landowner would be in ownership of each buffer area that lies within his property boundary and there will be a deed restriction that will protect the areas. Mr. Monticup asked if the HOA would have jurisdiction on the buffer. Mr. Zdrahal stated the HOA could have the right to enforce the buffer area. Mr. Les Douglas, Harris Road, stated that 50 feet from my house you want to build the access road through the wetlands. Mr. Douglas stated that he is providing the Board with pictures of this area that shows the area totally flooded. Mr. Douglas asked if he will be assured that his property and house will not experience a worse scenario with regards to flooding that is caused by the proposed development. Mr. Zdrahal stated that he is very aware

of the drainage problem in the area and has a detailed engineered plan for the SWMA that will not negatively affect Mr. Douglas' property and hopes it will create a better situation. Mr. Douglas stated that the County placed a new culvert under Harris Road and pointed it out on the map and asked if the culvert will be improved. Mr. Zdrahal stated that it is a 54-inch culvert pipe that is sized to handle the amount of runoff for the area. Mr. Zdrahal stated that there are areas that flow toward the culvert that is not impacted by the development but will be taken into consideration when the project's area drainage is released to the culvert under Harris Road. Mr. Zdrahal offered to visit Mr. Douglas' house and review the drainage situation when final plans are drawn up. Mr. Douglas asked if he will be able to connect to the sewer line that will be extended pass his property. Mr. Zdrahal stated yes. Mr. Watts stated that he has heard a number of flooding or drainage concerns and stated the Planning Board has asked its engineers and the projects engineers to be more cognoscente on drainage needs and to look at the broader picture that sometimes makes a bad existing situation better through development. Mr. Rich Walker, 6 Locust Lane, he has met with Mr. Zdrahal and looked over the SWMA near his property and stated the proposed development has improved greatly since its inception. Mr. Walker asked who is liable and responsible if the SWMA fails and damages his property with flooding. Mr. Chauvin stated liability for an abutting homeowner is clear in the statutory regulations in the State of New York and that an adjacent landowner cannot discharge water or make your property inundated with water or create a negative issue for your property. It is the responsibility of the developer and his design engineer to design and implement the construction of the SWMA as designed. The design engineer stamps the plans assuring the plan will operate and function as designed. These systems are dedicated to the Town and during the planning process our Town engineers review their plans and during construction our engineers inspect the construction to make sure it is correct before the Town takes over the maintenance of it. If you experience any negative impact you need to contact the landowner and you have every right to bring an action against him and in turn the landowner can take action against his design engineer. Mr. Walker stated where his house lies is adjacent to a SWMA and there would be no home so who would I take action against. Mr. Chauvin stated if the developer has contoured the land and has created a flooding problem on your property you would go to the developer. Mr. Walker stated he knows that we have talked a lot about drainage and runoff tonight but everyone knows this parcel is very wet. Mr. Walker stated he understands that there will be utilities extended up Locust Lane and asked if there would be disruption to existing services and time span. Mr. Zdrahal stated that he foresees no disruption to his service and was not sure of a time span but not too long. Mr. Walker stated that there will be more cars on busy Guideboard Road and what was the outcome of the traffic study. Mr. Watts stated totality of development does create traffic issues. The State of New York owns part of the road there and the County of Saratoga owns the other road. The Planning Board has made recommendations to the Town Board and the Town Board has made recommendations relative to the improvement of traffic conditions in various places in the Town. There has been some money set aside for improvements to those intersections. Mr. Watts stated there is not enough money to do a fair job at this point and there might be different philosophical points of views from individuals as to why a municipality is using their money to help the State and their issues. They are all a part of very large issues about the State road system that is not in good shape. Mr. Watts mentioned that he is part of the Capital Region Planning Commission and this issue is all over. Mr. Watts stated he understands because he drives through it all the time. Mr. Watts stated that we do hold the people who do the traffic studies to very close scrutiny and ask our engineers to pay close attention to the traffic reports. You can say there is no impact from one project but there are cumulative impacts.

Mr. Polak stated that the Planning Board over the years has gained additional lands off of the existing businesses along Guideboard Road for a future widening of Guideboard Road. Mr. Polak continued five years ago those improvements would cost 1 million dollars so think about what the cost would be today. The Town Board has talked to the State and the County but neither one of them will commit to the improvements. Mr. Polak stated that the County would place a traffic signal light at the intersection of Harris and Middletown Road. Mr. Frank Sokolowski, Locust Lane, asked if Locust Lane would be used as a construction access road. Mr. Zdrahal stated that there will be utilities extended up Locust Lane and there has been a discussion about an emergency access through that area but there will be no connection for construction trucks to use. Mr. Zdrahal stated that he could place a note on the plan and have it as a condition of approval that no construction trucks will utilize Locust Lane during the development of the project. Mr. Chris Law, Oregon Trail, stated there are 50 homes that front on the creek that is between their homes and the proposed development. Mr. Law stated that the creek runs at capacity during every rainstorm. Mr. Law stated with the proposed density and the deforestation of the proposed project that the runoff will increase. Mr. Law asked for reasoning to the higher density and that this density will increase runoff to the creek and make the creek area unusable throughout the year. Mr. Zdrahal stated he is familiar with Mr. Law's development because he designed it. Mr. Zdrahal stated that with the proposed PDD verses a conventional subdivision to Town standards there would be an increase of 15 homes from 66 homes to 81 homes. Although the PDD has additional homes, there is a net increase of preserved land. Mr. Zdrahal stated that any impact to the creek, which lies in the middle of NYSDEC wetlands, we have to produce an engineered Stormwater Management Plan that shows runoff calculations of the existing conditions to meet the calculations of runoff for the post construction condition when the development is finished. We need to show the pre-existing conditions meet or are reduced after the development is constructed. Mr. Law stated that all of this water would end up at Harris Road where we know we have an existing bottleneck, which is not going to change or be improved. Mr. Law stated that if we think the amount of deforestation and the density being proposed is going to improve the runoff of which we are literally tripling the amount of runoff we are only rendering the existing properties along the creek useless. Mr. Zdrahal stated he has looked at the County culvert at Harris Road and believes it is sized correctly. Mr. Zdrahal stated we have to document that there will not be any increase in runoff from the proposed project. Mr. Law asked if the Army Corp of Engineer (ACOE) would need to walk the property. Mr. Zdrahal stated that ACOE already walked the property and confirmed all of the wetlands. Mr. Law stated the whole creek area is known to be a wetland and it is a known problem and more runoff will make the property useless at this point. Mr. Law stated that back when there was a capacity issue with the sewer, the Town placed a moratorium on building in the area until the problem was resolved. Knowing there are problems with traffic congestion, why not have the Town place another moratorium on development until there is enough money to fix the Route 236 and Guideboard intersection. Why allow more burdens to an already known problem with no fix in sight? Ms. Katherine Suchocki, Harris Road, stated that she commends Ivan for meeting with all of the adjacent landowners but she feels there is a planning issue that there are way too many developments. In the last 10 years development has put the Town of Halfmoon on the map but it is basically unregulated growth. Ms. Suchocki stated her abutting property is all open field farmland the proposed development is totally forested. If you remove the vegetation there will be increased runoff. Ms. Suchocki feels her property adjacent to the development will be affected by runoff. Ms. Suchocki stated that she asked for a 50 ft no cut buffer to be placed around the perimeter of their shared boundary line. Ms. Suchocki stated that she feels the Planning Board should

walk the property. The last thing she would like to see is house after house. People enjoy seeing the farmland, she feels that this is uncontrolled growth and with all of the deforestation she is putting the Board on notice that this is a farm **(At this point there is a recording tape malfunction where the tape started at the next item on this agenda----The following is exclusively transcribed from Mr. Williams' hand written notes)**. Mrs. Lois Smith- Law, Oregon Trail, stated that she feels the development is too large and that this parcel holds a very large stand of trees and some very unique woodland species and the wildlife should be taken into consideration. Mr. Les Douglas, Harris Road, stated he can see turkey and deer everyday and would hate for them to be disturbed. Mr. Douglas stated that the pictures of the flooding on Harris Road that I presented were from last year but in 1996 the water flooded over the road. Mrs. Denise Mikol, Guideboard Road, asked where the pond on Guideboard is located compared with the development. She stated that the pond overflows onto Guideboard Road on occasions and asked if the development would have any affect on it. Mr. Zdrahal stated they want to somehow incorporate the pond with the development and that there is drainage improvement work to be done along Guideboard Road associated with the development. Mrs. Mikol stated there are two dangerous curves on Guideboard Road and in the winter they become very icy and hopes the new proposed access road takes this into consideration. Mrs. Mikol asked the length of the cul-de-sac. Mr. Zdrahal stated about 1200 ft. Mrs. Mikol asked if there would be sewer connected along Guideboard Road. Mr. Zdrahal stated that there is a plan to bring sewer to the Harris and Guideboard Road intersection. Mrs. Barbara Chiplock, Guideboard Road, asked what the public benefit was for the project. Mr. Zdrahal stated to bring sewer to the Harris and Guideboard Road intersection. This would allow sewer to be further extended into the Halfmoon Drive area and along Guideboard Road. This is part of the public benefit for the project. Mr. Watts stated that he is not sure if that is all of the public benefit and that would need to be further discussed with the Town Board. Mrs. Chiplock asked where the construction access is located. Mr. Zdrahal stated that has not been determined but it would be from either the Guideboard or the Harris Road access. Mr. Brian Solowski asked how the emergency access is regulated. Mr. Zdrahal stated it would be a locked gate so that if needed, emergency personnel would only use it. Mr. Watts closed the Public Informational Meeting at 8:03 pm. Mr. Watts asked the Board if they had any comments. Mr. Higgins stated that the Board has asked Mr. Zdrahal about the SWMA at the end of Locust Lane with regards to the proximity to the existing residences. The Board asked if the SWMA could be moved further away from the existing residences.

This item was tabled in order for the applicant to respond to the Public comment.

Mr. Watts adjourned the meeting for 5 minutes in order for the room to clear.

**Public Hearing:**

**08.034 PH      Rolling Hills Subdivision, Lot #37 & #38 Rolling Hills Drive – Lot Line Adjustment**

**(This is the point where the recording tape resumed)**. Mr. Watts opened the Public Hearing at 8:12 pm. Mr. Watts asked if anyone would like to have the public notice read. Someone responded yes. Mr. Watts read the Public Notice. Mr. Percy Cotton, of Chas. H. Sells, Inc., stated the following: I am here tonight representing Charlew Builders for a lot line adjustment of the Rolling Hills Subdivision at the corner of Ridgewood Drive and Rolling Hills Drive. We are proposing to convey approximately 300 SF of property from one lot to another.

This conveyance will increase Lot #37 by approximately 300 SF and Lot #38 will decrease by approximately 300 SF. This is a reconfiguration because of the initial layout didn't provide much of a backyard. Mr. Watts asked if anyone from the public wished to speak. Mr. Jeff Lang, 24 Rolling Hills Drive, is this the only option that was considered or was this the only arrangement that could be made. My concern is that we are creating two very odd shaped, pie lots and that appears we are trying to shoehorn two houses in the area. Mr. Cotton stated that we looked at several options but this one being presented gave the one home the rear yard that they desired. The original layout did not give the one lot any privacy, as their backyard would front its entire length along a road. This configuration gives the lot a more typical layout where your front yard is in the front along the road and the rear yard is in the back away from the road. Mr. Lang asked if all the required setbacks have been met. Mr. Cotton stated yes with a 50 ft front yard, a 30 ft rear yard and a 10 ft side yard. Mrs. Krista McCoy, 39 Rolling Hills Drive, asked if a house can be placed on the corner lot as it currently exists. Mr. Cotton stated yes but the proposed lot lines is a better layout. Mrs. McCoy stated that Charlew Builders told her that a house couldn't fit on the lot as it stands today. Mr. Cotton did not understand but maybe the model they want to place on it could not fit. Mr. Williams stated during the original subdivision for Rolling Hills Estates, this Board approved the lot in question as it met the minimum required lot area and the minimum setbacks and is considered as a building lot. The lot has a sufficient building envelope. Mr. Watts stated it appears they are trying to make it better for the neighbors and the people wishing to move in there. Mr. Watts stated the Town Attorney has reviewed this issue and has determined the proposed layout meets the Town's regulations for a building lot. Mrs. McCoy asked if it is guaranteed that the house will front on Rolling Hills Drive. Mr. Cotton stated yes because there is no frontage on the other road. Mrs. McCoy asked what the setback would be from her house. Mr. Cotton stated 10 ft is the minimum that is standard and consistent with the development. Mrs. McCoy stated that her main concern is the layout of the two proposed lots does not affect the value of her house. Mr. Cotton stated that if a house was placed on the original lot with the limits of the building envelope, it might be a house not as nice as hers. Mr. Watts closed the Public Hearing at 8:20pm. Mr. Watts asked if there were any questions from the Board.

Mr. Nadeau made a motion to approve the lot line adjustment for the Rolling Hills Subdivision. Mr. Roberts seconded. Motion carried.

**New Business:**

**08.052 NB      Bruce Tanski Construction Office, 457 Route 146 – Change of Tenant/Site Plan**

Mr. Roberts recused himself from this item and Mr. Leonard replaced him. Mr. Duane Rabideau, VanGuilder and Assoc., representing the applicant stated the following: He is here tonight for a site plan modification at 457 Route 146 just opposite of the Stewart's shop and adjacent to the Auto Auction. There is one curb cut into the site and Jay's Auto Repair Shop and what is being proposed is to renovate the existing residential structure into the Tanski Construction Office. There is also a request to expand the parking by adding to the existing parking. There will be parking added along the rear boundary of the site and five parking spaces to be added to the side of the proposed construction office for a total of 24 parking spaces on site. Public water and sewer service this lot. There is a note on the plan that the existing driveway that served the residential use will be removed and the site will use the existing Jay's Auto Repair curb cut to access the site. Mr. Watts asked the Board for comment. Mr. Higgins asked if there is a designated handicap parking space. Mr. Rabideau stated there is an existing handicap parking

space adjacent to Jay's Auto Repair shop. Mr. Berkowitz asked if that meets ADA standards. Mr. Tanski stated he believes so but can add another one if that is the wish of the Board. Mr. Tanski stated that the general public will not be visiting the office and it will only be used for his contractors. Mr. Watts stated that when the building permit is reviewed we would make sure it meets the ANSI standards. Mr. Watts stated that this would be the Bruce Tanski Construction Office of Halfmoon I assume. The applicant stated yes.

Mr. Berkowitz made a motion to approve the Bruce Tanski Construction Office change of tenant/site plan application. Mr. Higgins seconded. Motion carried.

**08.053 NB      Torres Tae Kwon Do, 1410A & B Route 9 (Garden Gate Plaza) – Change of Tenant**

Mr. Fred Torres, the applicant, stated the following: He is looking to move his business from Clifton Park to Halfmoon in the Garden Gate Plaza. Mr. Watts stated that one of the issues with this type of business is parking needs. Mr. Watts asked Mr. Williams if he has reviewed the parking situation with this site. Mr. Williams stated yes. Mr. Watts asked if he thought that there would be no issues with the parking. Mr. Torres stated he has submitted a schedule with the maximum amount of students per class. He has limited the class size because he would not be able to give the individual attention to his students if the classes were too big. The maximum number of students would be 12. Mr. Watts stated the parcel size is larger as to where additional parking could be placed if needed. Mr. Watts added the site plan show three land banked parking if needed. Mr. Watts cautioned the applicant to be aware of the parking situation as not to create a danger. Mr. Higgins stated that there are two curb cuts onto Route 9 and when the classes leave all at the same time it could create a dangerous situation. The applicant stated he understands the concerns of the Board and will do his best to keep it safe. Mr. Watts asked the applicant to advertise that he located in the Town of Halfmoon.

Mr. Roberts made a motion to approve the change of tenant application for Torres Tae Kwon Do. Mr. Berkowitz seconded. Motion carried.

**08.054 NB      Czajkowski Subdivision, 17 McBride Road – Minor Subdivision**

Ms. Bernadette Czajkowski, the applicant, stated the following: She is here tonight to subdivide her property to create a one acre parcel for her daughter who wishes to construct a single-family home. Because of the distance from McBride Road we are requesting a flaglot with a 800 ft driveway. The reason is there is a wonderful view from the area we are proposing to subdivide. Mr. Watts asked the Board for comment. Mr. Nadeau asked what the remaining acreage would be for the rest of the parcel. Mrs. Czajkowski stated about 47-acres.

Mr. Roberts made a motion to set a Public Hearing for the June 9, 2008 Planning Board Meeting. Mr. Higgins second. Motion carried.

**08.055 NB      Sand Dollar Travel, 2A Halfmoon Executive Dr. – Change of Tenant & Sign**

Ms. Anna Mari Perrotti, the applicant, stated the following: She stated she is here tonight for a change of tenant and sign approval to operate a travel agency from the first building in the Halfmoon Executive Office Park. Mr. Watts asked how many employees. Ms. Perrotti stated there will herself and a part-time employee that only works on Mondays. Mr. Watts asked Mrs.

Zepko if parking was appropriate. Mrs. Zepko stated yes. Mr. Watts asked Ms. Perrotti to please advertise her business as being located in Halfmoon.

Mr. Nadeau made a motion to approve the change of tenant application for Sand Dollar Travel. Mr. Berkowitz seconded. Motion carried.

Mr. Roberts made a motion to approve the sign application for Sand Dollar Travel contingent on the sign not being in the State ROW. Mr. Berkowitz seconded. Motion carried.

**08.056 NB      McBride Subdivision, 9 & 11 McBride Road – Minor Subdivision**

Mr. Duane Rabideau, of Gilbert VanGuilder & Associates, stated the following: I am representing George and Rose McBride in their request for a 2-lot subdivision. Their parcel is located on the north side of McBride Road about 500 FT west of Pruyn Hill Road. It is a 2-acre parcel and we are proposing Lot #1 as being 40,000 SF around the existing improvements on the lot and then create a flaglot to the rear portion for a proposed house with a private well and septic system. Mr. Berkowitz asked if there could be back-to-back flaglots on different properties. Mr. Chauvin stated yes, if they are on distinct properties. Mr. Higgins stated the plan shows a concrete well cover and asked if that was on an existing well? Mr. Rabideau stated yes. Mr. Higgins stated before the Public Hearing could you please show on the plans any adjacent wells or septic on other properties. Mr. Rabideau stated okay.

Mr. Berkowitz made a motion to set a Public Hearing for the June 9, 2008 Planning Board Meeting. Mr. Higgins second. Motion carried.

**08.057 NB      Grosky Office Building, 436-438 Route 146 – Concept-Commercial Site Plan**

Mr. Gavin Vuillaume, of Environmental Design Partnership, stated the following: This project has been in front of the Board approximate 2 years ago and I believe the project did receive site plan approval. The applicant has now submitted a new application. Since the original project was approved two things have occurred. The applicant has been able to purchase the property directly to the west of the parcel that was approved and also during that time the approvals have run out so the applicant would be making a new application for this proposed 14,000 SF office building. The original project that was approved by this Board was a 5,800 SF single-story office building with 25 parking spaces proposed on a 1-acre parcel with a single access off of Route 146. A boulevard entrance was proposed to access the 2 parcels and at the time of the original approval those 2 parcels were separated. The boulevard would be utilized for ingress/egress to both of the parcels. I believe it was discussed with the Board at that time that another office building would be proposed on the smaller piece. Obviously this office building was not constructed and since then the applicant now wishes to combine the 2 parcels and just go with one single building and this is what we are proposing this evening. Again, we are proposing a 14,000 SF two-story office building laid out in a very similar configuration as in the original site plan that was approved. The building would be situated in the center of the lot with parking on 3 sides. There would be municipal sewer and water and on-site stormwater management. With the additional square footage we want to try to maintain about the same amount of green space and I believe we have a little over 40% green space. We are looking at about 70 cars for this office building. There probably would be entrances on 3 sides of building to access the building and right now they don't know how many tenants would be in here but the applicant is estimating at least 2 to 3 tenants would occupy this structure. Mr. Higgins stated the drawing is a little busy and asked if there would be just one entrance on Route 146.



Mr. Vuillaume stated yes. Mr. Higgins asked if the west side of the property would just be green space. Mr. Vuillaume stated yes, that is correct. Mr. Ruchlicki asked if there was vegetation shown on the old drawing. Mr. Vuillaume stated these were corrections that were made on the drawing and bubbles were drawn around some of the notes that were added to the drawing. As far as the existing vegetation on the property our new proposal doesn't really depict it as well. It is fairly open in the front and toward the back corner it is more vegetated. We would be able to save a lot of that vegetation towards the back of the corner of the property. Mr. Ruchlicki asked if they specified what size the shade trees would be. Mr. Vuillaume stated at this time we are just at the concept level but we would specify the size of trees for the detailed plan. Mr. Higgins asked if the area they have allowed for the stormwater management area is sufficient. Mr. Vuillaume stated the following: It depends on the soil conditions on the site and we still need to do soil analysis and perc tests to make sure. I know it is sandy soil so we are anticipating that it will probably be more of an elongated basin than the basin that was originally approved. I think they were intending to have 2 separate basins and we would like to combine it in one long linear one. If we do need to move things around, I can easily elongate the stormwater management pond and maybe put the dumpster over in the other corner. We have plenty of green space at the site to move things around if we need to. Mr. Higgins asked how deep would the stormwater basin be. Mr. Vuillaume stated I think the original basin was only proposed to about 3 or 4 FT deep. Mr. Higgins stated it seems like an awful lot of impervious area that you are trying to drain and it just looks a little small but I am sure the engineer will take a look at it. Mr. Berkowitz asked if any thought has been given to moving the building forward toward Route 146 and have more of the parking in the back. Mr. Vuillaume stated the following: I believe the original plan was to have a single loaded parking area in the front and then double loaded in the back. I believe at this time because of the nature of the fact that the building is quite a bit larger, I think the applicant would like to be able to get most people to access through side and the front and this would be more or less just for employees. We can look at that as another option to bring some more of the parking into the rear. Mr. Watts stated if you look at the Realty USA building or some of our more recent projects in Town, the buildings are up toward the road with parking in the rear. So, we would like you to look at that. Mr. Vuillaume stated sure.

This item was tabled and referred to CHA for engineering review.

**Old Business:**

**06.163 OB**

**Boni PDD (Hospital & Biomedical Research Campus)– Route 146,  
- Commercial Site Plan**

Mr. Watts stated the following: The purpose we are here for tonight is to have the applicant update us relative to the comments that were made at our last Public Informational Meeting and to bring forth any new information. Should we have enough information presented tonight, we may make a zoning change recommendation to the Town Board. Mr. Kevin Dailey, Attorney, stated the following: I am here representing Mr. Boni, the property owner, who is also present at tonight's meeting. We are here to bring you up to date on some of the comments that we received at the last meeting, in particular from CHA. To recap, it is an 81-acre site, we have 29-acres of wetlands and we have been very skillful, and I would like to thank Mr. Scott Lansing of Lansing Engineering, for his fine job in laying out the buildings as to avoid the wetlands and the buffer areas. The main building is a 225,000 SF hospital healthcare facility. We also have proposed 2 large buildings, which we're earmarking towards biomedical research and then the balance of the buildings add up to 242,000 SF in addition to the 225,000

SF for the main hospital building. A couple of comments from CHA focused on the height of the building and the appearance from Route 146. Mr. Watts and I had a conversation about a month ago concerning whether the Town at this point wanted us to go through the full visual presentation of what a building would look like. We know approximately what the height of the building would look like and my feeling was that we would like to present something to the Town when we get to the point of site plan approval and review. For the time being, Mr. Lansing's office did go out and put balloons up. They went up 80 FT to get an idea of how big the building would be and what you could see from D&R Village, Route 146, the SAAB Dealership and Mr. Tanski's property on Fellows Road. I have given the Board some pictures that show the balloon. The balloon was put up where the main hospital would be and this was done when the leaves were off the trees. The balloon is barely above the tree level. For practical purposes the building really wouldn't be seen. I think the Town needs to tell us, at some point, if the building is of a design that is an attractive design and could be a signature structure in this community and if you would like the trees removed so that the building is visible from Route 146. If you decide that you don't want to see the building, the trees can stay and we can work around those trees because there is a good buffer there already and the building for the most part could be hidden from Route 146. If the Town tells us at this point that they want us to go ahead and give them some kind of a rendering; we are prepared to do so. Mr. Watts stated not at this point. Another issue that still remains open is that where we are showing the 6,000 SF freestanding building structure it is necessary for us to do a Phase 2 archeological study and we are willing to do that. It hasn't been completed yet as it is an expensive study to undertake and we really didn't want to spend the money, which would be close to \$20,000, to do that study until we had a good sense from the Town as to whether the Town would be approving the project. Mr. Watts stated the following: I believe at this point we are here to make zoning recommendation change for the Phase 1 project which would include the 225,000 SF hospital building and then once that is completed we would move on to Phase 2 which would include 240,900 SF of office medical buildings. So at this point we are discussing Phase 1 for a zoning change. Mr. Dailey stated the following: Okay. We realize that we can't proceed with that Phase until such time as we get that Phase 2 study done and submit it to the Town. Mr. Watts stated correct. Mr. Dailey stated the following: Those are the two main comments that I got out of CHA's May 12, 2008 letter that remained unanswered. At the last meeting there was a question about the height of the building and it is my understanding from talking with Mr. Greg Stevens, the Town's Director of Code Enforcement, that those questions with the fire department have been resolved. Mr. Watts stated that is correct. Mr. Dailey stated for the record I wanted the Planning Board to be assured that a year ago we did meet with the fire department. Mr. Watts stated the following: There were some communication issues within the fire department and those issues have been resolved. There was a test done relative to the ability of the fire truck to reach to the top a building which maybe that high or may not be and those issues have been resolved. Mr. Dailey stated okay and that is very pleasing to hear. Mr. Watts stated the following: Were there any other issues that were raised at the Public Informational Meeting. I believe from reading through these public comments from the Public Informational Meeting some people were very positive about the need for a hospital but I don't really see any questions relative to the site itself. Most of the site issues would be reviewed after the Town Board had taken action. At this point we are looking for a recommendation relative to the zoning. Mr. Watts asked if anyone from the Planning Board had any questions at this point. Mr. Dailey stated the following: It has been a journey but we appreciate all the Board's input and everything that we were asked to do, there

was always a good reason for it. We are glad to be here working on the Halfmoon Healthcare Campus.

Mr. Roberts made a motion to grant a positive recommendation to the Town Board for Phase 1 of the project's re-zoning. Mr. Berkowitz seconded. Motion carried.

**08.024 OB      New Country Toyota-Scion Service Facility, 202 Route 146 –  
Addition to Site Plan**

Mr. Dan Tompkins, of Environmental Design Partnership, stated the following: Tonight I am presenting the final detailed site plan for the Toyota-Scion Service Facility. The Town Engineer has reviewed this proposal and we have gone back and forth fine-tuning the design. You are probably aware that the applicant had to delay this for month or so. What they needed to do was to confirm their expansion program and compare it against their established budget. As a result of that, there are a couple of changes that I would like to identify to the Board. Previously there was a proposed automatic car wash on the north side of the building and that is being taken right off of the table. The applicant would request that they retain the right for installing car-washing equipment some time in the future if they chose to which would be inside of the building and there is space available to do that. But, they are not proposing an exterior addition along the north side. There is plenty of room inside in the future for example; if body shop operations were to be relocated to another site, that would free up more space and there would be plenty of room for the automatic equipment. In other dealerships they have automatic equipment inside the building so it is entirely workable. The other change is a drive-in write-up area, which is an area where you can drive into the building to get out of the weather. A service advisor would greet you at your car and an employee will take your car for servicing. We are asking for the approval to be for 3 lanes. This is the way it has been from the original plan. However, the letter gives a heads up that it is very likely that it would be reduced to 2 lanes. The building would have the same depth at 65 FT but instead of 51 FT wide, it would be 36 FT wide and that is a budget driven issue. The only difference from an exterior standpoint is that there would be a net gain of 5 parking spaces because the building would be narrower. I am leaving it as an option for them because when they do retain a contractor, they go through the final numbers and the possibility still exists that they hit their budget, I want them to be able to go with the original plan and not have to go before the Board again for that. The automatic car wash is a very pricy item by the time you figure in the equipment and the construction of the building itself and everything that is involved with it. If there were any extra money, it would be going into this. This is why the letter is structured the way it is. If this were installed in the building, they still would propose at this time to use their well water. We have tested the wells and have looked at them in great detail and the yield is available to do that. There would be a recycling system inside the building so the actual usage per car is greatly reduced. We still are proposing a connection with the municipal sewer so the existing holding tanks that are there now would be converted into oil water separators. We have received comments from Saratoga County Sewer that are technical in nature so that looks very good. In the near future I will be coming in with an application for the Toyota sales. I am showing it on this plan just for continuity and this would be handled as a separate application. Mr. Ragone, of Environmental Design Partnership, explained early on that the service operations out of this existing building whole idea is to get everything moved over to here. This would be entirely sales with the exception of what they call PDI, which is new car preparation. There would be some stalls leftover for that because it is a type of activity that makes complete sense to have it with the sales department. This will be coming but what I would ask for is that

if you feel that we have addressed all the questions, I would ask for final approval tonight for this. Mr. Watts stated I have raised this issue before about this business advertising as being located in Clifton Park. Could you please go back to the owners and ask them if they can change it from Clifton Park to Halfmoon? Mr. Thompson stated yes I will. Mr. Higgins asked what size are the parking spots. Mr. Thompson stated the following: They are both sizes. One of the reviews from CHA was for creating some parking spots that were 10 FT x 20 FT that would be geared for short-term customer use. This is a car business so to use 10 FT x 30 FT parking spots for display and inventory would be a tremendous waste. Mr. Higgins asked if this is shown on the drawings. Mr. Thompson stated the dark shaded spots are assigned to be 10 FT x 20 FT and the balance of the parking spots would be primarily for display. Mr. Higgins asked where the stormwater retention area was on the site. Mr. Thompson stated the following: There is none. This is an existing site and what we are working with is the existing stormwater pattern. This particular site does not have an on-site detention basin. This has been in existence since the 1980's before that regulation came in. There are catch basins throughout the paved area and the drainage goes out to the edge of the road or along the swales on Route 146. There have not been any flooding issues at this site. The key here is that we are not introducing any new impervious surface. Mr. Higgins asked if the area that is paved is where they are going to put the addition. Mr. Thompson stated yes it is. Mr. Higgins asked if there was any green space there. Mr. Thompson stated none whatsoever. Mr. Nadeau the following: I have a question on the approval based on you may not do the full site. What is the time frame for this and is this something you would know within the budget or are you saying that you are going to come back in 3 years and say now you want to finish what was approved? Mr. Thompson stated the way I wrote the letter is even if they wanted to put the 3<sup>rd</sup> lane in as an addition, I was asking that the applicant have the right to do that. Obviously they would have to get a building permit. Let's get it approved for the 3 lanes, if they build 2 and then come a year later and decide the demand is there for the 3<sup>rd</sup> lane, they would be able to do it. This is why we are showing on the detailed plans a 2-lane version as an inset to the 3 lane version. There is no difference in size except for a 5 parking spaces. Mr. Nadeau asked if there would be fees involved and asked if they would be paying for a full scale and then not doing a portion. Mr. Thompson stated if we have not caught up on the fees, we would pay for the full scale. Mr. Nadeau stated we would have to see the site again if it is over a year and asked if this was something that is going to be done at budget time or 3 years from now. Mr. Thompson stated the following: I don't know that answer to give you 100% on that. They told me that in all likelihood it is going to be the 2 lanes. I haven't seen the operation and sometimes things change a little bit. I am trying not to have them painted in a corner. Mr. Chauvin stated the following: I don't have an issue of what is in front of the Board, but the Building Department may have issues as to how they are going to collect their fees. The applicant can pay all the fees up front to protect themselves against inflation. But unless the Building Department is able to discern a problem, I don't see why this would be a problem. It is just the configuration and the square footage. Mr. Watts asked how many additional square feet are we talking about. Mr. Thompson stated the following: I think the difference is just slightly less than 1,000 SF and from a site plan fee standpoint I don't think it's significant. I don't want them to pay some fee based on the construction expense of 3 lanes if they are going to build 2. I would think that they would pay that fee when they built the 3<sup>rd</sup> lane if they ever did. Mr. Watts stated that would be fine and that makes sense.

Mr. Roberts made a motion to approve the addition to site plan application for New Country Toyota-Scion Service Facility. Mr. Ruchlicki seconded. Motion Carried.

**Due to a malfunction in the tape recording equipment, Project #08.041 – Kivort Steel Inc. meeting minutes were not recorded. The following is the action taken by the Planning Board.**

**08.041 OB      Kivort Steel Inc., 380 Hudson River Road – Addition to Site Plan**

Mr. Roberts made a motion to deny the addition to site plan application for Kivort Steel, Inc. on the basis that the proposed addition does not meet the required setback for a corner lot. Mr. Higgins seconded. Motion carried.

**This is the point where the recording tape resumed.**

**08.048 OB      JD's Tire Kingdom, 1540 Route 9 – Change of Tenant & Sign**

Mr. John Hoke, Attorney for JD's Foreign Car Sales, stated the following: When this project was originally before the Board, there were 3 concerns that were raised. One of the concerns was in regards to the sign height, the second concern was the traffic volume and the third issue was what was going to be done with the tires that are submitted for recycling. It is also my understanding that the responses to all those matters have been submitted to the Board. Mr. Watts stated there was a further issue raised relative to the pre-existing, non-conforming use. Mr. Chauvin stated the following: I received a memo from Mrs. Murphy who stated that she had reviewed this application and believed the application constituted an expansion of a pre-existing, non-conforming use which would have to be denied and the applicant would have to seek relief from the Zoning Board of Appeals (ZBA). Mr. Watts asked Mr. Williams if he had discussed this with the applicant when we received the Attorney's opinion. Mr. Williams stated no I did not. Mr. Hoke stated I wasn't aware of that and we have been before the ZBA and have already got an extension. Mr. Toby Fallis, of Auto American Super Store, stated the following: We realized that this is going back to October of 2006 which was the last time we got together except for the past meeting that I attended a couple of weeks ago. It looks like in the minutes, which I didn't have a chance to review, in the past we did go before the ZBA and it looks like we were approved unless there is a further consideration related to the JD Tire Kingdom name being added to the sign, which I realize, was a concern. I do have that in writing. Mr. Hoke stated the following: At the September 5, 2006 ZBA meeting the ZBA approved the special extension of a non-conforming use and there are no changes to the use of the site that are being proposed. The applicant is confused as to why they would have to go before the ZBA again. Mr. Chauvin stated I do have the memo from Mrs. Murphy, which stated "The applicant is expanding a pre-existing, non-conforming use by expanding into a retail tire business. The non-conforming is the used car sales, the service is allowed. They need to be denied". I cannot give you any more information than that but you can certainly communicate with Mrs. Murphy regarding this memo. Mr. Fallis stated the following: I think that reflects the request that we made. We will do whatever we need to do. There are 2 options that we have to look at. It looks like with the original request, we are JD Tire Kingdom in Colonie as part of the DeNooyer Group and the DeNooyer Corporation owns us. We are Auto American Super Store under the same umbrella. When we came up here a couple of weeks ago asking for JD Tire Kingdom to be our marketing arm of our DeNooyer umbrella for the purpose of retail sales, being tires, to the general public and service to the general public. This is where I think we

came into what was to some degree surprising to you gentlemen where the original approval was based on Auto America having a "primarily having a service business that is primarily there to service the cars that are being sold and secondarily to the general public". Our original request was for light maintenance on the vehicles that we sold to the customers who we sold cars to. I realize that we brought in the name JD Tire Kingdom and asked to expand our sign to include that name that it brought up the concern of the thought that I respect and realize that her opinion is that this is a change of use. Our opinion is tire sales is a sub portion of Auto America not a separate business with separate accounting, management and sales. It is all under the same roof. I would be the manager of both operations. We run JD Tire Kingdom down in Colonie, which is next door to DeNooyer Mitsubishi and across from DeNooyer/Metro Dodge. Those are similarly operated businesses. We run our accounting and our entire business under the umbrella of DeNooyer Chevrolet, 127 Wolf Road in Colonie or Albany. I realize that this is concern and I respect her response. If that is the case, where do we stand with Auto America Super Store itself without JD Tire Kingdom doing what we need to do? That is to buy cars, PDI (pre-delivery inspection), cleaning the car, inspecting the car, maintaining it and making it right for a customer. Then handling the customer complaints if and when they come back, which by the nature of the business happens on that percentage that I have to deal with. My direct question to the Board is in order to avoid going back to the ZBA, if they do consider this a very significant change in our business, where do we stand with the sign staying the same because I believe we were already approved for what we need to do as Auto America by itself and asked if that is correct. Mr. Watts asked do you mean with what you are doing there now without the tire sales? Mr. Fallis stated the following: True. I will give you a little bit of insight my part. As far as other dealerships looking at their budget and looking at sales and selling cars, it is all about economics of it. We are here to make money. There are a lot of times where we don't have volume in a car business and where we don't have the volume to open up a mechanical shop, a cleanup shop and everything that goes along with that. We are caught in the middle for the last year and half. It was in October 2006 that we were last here and I took over in February 2007. Our goal is to build that store up in the proper way, to treat the customers right and to do it properly. We have been subletting for more than a year and a half and we don't consider that a lack of use of our property, we consider that an economic thing. We have been sending our cars out for cleanup and for mechanical repairs and subsequently when they come back again for the repair of a vehicle that broke down. We need to be able to do this on our property for our own economy and for our business as we are growing. With people trying to get cars that are good on gas mileage and trying to get rid of cars that have bad gas mileage, believe it or not, our business is picking up. It has been that way slowly but surely and we want to keep it going and we want to do it as fast and as soon as possible. We really don't want to come back before the Board unavoidably or without answers to questions you asked. I apologize for the little bit of a blind siding last week after I reviewed the minutes, seeing that JD Tire Kingdom was surprise and we are just trying to get it straight. Mr. Watts stated originally we thought it was car sales and then the tire sales came in. Mr. Hoke stated the following: In 2006 the Planning Board approved sales and service were approved at this site. I think the issue that Mr. Chauvin is raising has to deal with which vehicles are being serviced. I think Mr. Fallis is looking for clarification relative to whether or not vehicles that are sold by Auto America Super Store can be serviced by Auto America Super Store. I think it is more of a clarification than a request for an approval because according to the minutes I believe that was already approved. Mr. Watts stated at the last meeting I believe we were into the issue of the tire sales business and whether or not it would be a whole new operation at the site and whether new people would come to purchase tires as the sign would

say "tires for sale". We didn't see how we could restrict the tire sales to only the former customers because that is not rational. Mr. Higgins stated the following: I agree with Mr. Watts. Retail sales of tires is not what was originally approved by this Board for that site. If you now want to sell tires from that site, as Mrs. Murphy stated this is an expansion of a pre-existing, non-conforming use. Mr. Hoke stated just to clarify, service was approved at that site so that would take the position that the sale of tires is incidental to the servicing of vehicles and would be an approved use. Mr. Berkowitz asked why they needed a separate company to do that? Mr. Hoke stated it just a re-branding, for instance a Hoffman's Car Wash using Jiffy Lube as a re-branding. Mr. Berkowitz stated Hoffman's Car Wash and Jiffy Lube went in as two separate companies and you are morphing into two separate companies. Mr. Hoke stated it is all under the umbrella of the same corporate ownership. Mr. Higgins stated the following: In other words if you decided to start selling auto parts, oil and filters and everything else, are you maintaining that this is all the same company? I totally disagree. Mr. Hoke asked in terms of the retail sales of auto parts or wholesale sale of auto parts? Mr. Higgins stated the following: You are saying a retail sale of tires is the same as retail sale of cars and I totally disagree. When you have a dealer license to sell cars, you have a dealer license to sell cars and that doesn't automatically mean that every single car dealer in the Capital District also has a separate company selling tires. Mr. Hoke stated I think the concern is the name JD Tire Kingdom and I think it was always envisioned that the sale of tires would always be incidental to the servicing of vehicles. I don't think there was ever an emphasis on just selling tires at the site. Mr. Ouimet stated the following: I don't think it was ever presented to this Board prior to this application that there would be the sale of tires. I think the original proposal from Auto America was to expand their operation to allow the use of those back garages to provide service to those vehicles and incidentally provide service to other DeNooyer Auto Group vehicles that they may have to service in that location. But there was never any discussion with this Board, I don't know if you did have that discussion with the Zoning Board, that there was going to be any retail sale of auto services, retail sale of auto parts or automobile tires, which now is the proposal to add retail sales or sale of tires. Mr. Hoke stated I think the concern and the confusion is we are unsure as to the Board's concern whether it is the sale of tires or it is the servicing of vehicles in general at the site. Obviously incidental to the servicing of vehicles you are going to have to replace tires from time to time. I do not understand the Board's position on that. Mr. Roberts stated the way I see it is they are proposing 2 separate businesses here just by the fact that they want two separate signs. Mr. Watts asked what the other sign says on it. Mr. Fallis stated our existing sign says "Auto America Super Store". Mr. Roberts stated and the new sign is going to say "JD Tire Kingdom". Mr. Fallis stated right, the new sign would say "JD Tire Kingdom" on top that would be 3 FT and the bottom sign is 4 FT which says "Auto America Super Store", unless we had to contain it all in one sign. Mr. Roberts stated to me this is 2 separate businesses. Mr. Fallis stated I don't disagree with Mr. Roberts. Mr. Chauvin stated the following: I think that Mrs. Murphy has done the research. I can't give you an opinion on the run. Let me get back to Mrs. Murphy with what the question is that Mr. Hoke has raised and she can get the file and go through it and she can render an opinion and she can send a copy to Mr. Hoke and then they can decide whether they want to get a denial and go to the ZBA or whether they want to get an interpretation or how they want to proceed. Right now we are operating in the dark because I did not do the research. Mr. Hoke stated I think the question that Mr. Fallis raised originally in terms of clarification was if there is not JD Tire Kingdom and that sign is removed and it just Auto America Super Store and as I described "servicing incidental to the sale of vehicles" that would be allowed pursuant to the original site plan approval in 2006. Mr. Chauvin stated I think Mrs. Murphy has to answer that question.

Mr. Fallis stated the following: I appreciate the perspective that we all have but it is a little bit different. We are under the assumption that if we were a small used car dealer, for a small used car dealer we are not going to fix cars service on the property, we are going to send them out. We may not want to install a reverse osmoses system and a oil/water separator and everything that is involved with separating and taking care of car wash water and the stuff that flows off of vehicles and all those fluids that can leak out. Mr. Fallis stated to Mr. Higgins: If we are selling cars, you get the customer for one hour and you sell him. He is gone for 3 years and comes back for another car, we need to keep them with us and that means we need to service his car and to service his car we need to sell him oil changes, one set of tires, a battery, brake parts or anything else when they need to come in to get that car worked on. Mr. Watts stated I don't think that was issue. Mr. Fallis stated I agree with Mr. Watts, but I think I'm getting the idea that if we delete JD Tire Kingdom completely, we are under the impression that we have a responsibility to the public and a right to service our cars across the board including selling tires, parts and anything else related to keeping that car on the road. Mr. Watts stated "that car". Mr. Fallis stated "that car" or that referral from that person. Mr. Watts stated I think Mr. Chauvin's suggestion that you and Mrs. Murphy should talk might get us to a point where we can move forward.

This item was tabled for the Town Attorney to re-examine the expansion of a non-conforming use issue.

Mr. Ruchlicki made a motion to adjourn the May 27, 2008 Planning Board Meeting at 9:35 pm. Mr. Nadeau seconded. Motion carried.

Respectfully submitted,  
Milly Pascuzzi,  
Planning Board Secretary